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In re Application of
SATAPATHY, DURGA P., et al.
Application No. 10/035,620
Filed: December 28, 2001
For: **SYSTEM AND METHOD FOR MULTIPLE
ACCESS COMMUNICATIONS**

**DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT**

This is in response to the petition filed July 14, 2005, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181. No fee is required.

The application is held as abandoned for failure to timely respond to the non-final Office action mailed September 20, 2004. A Notice of Abandonment was mailed July 13, 2005.

Petitioner states that they did not receive the non-final Office action mailed September 20, 2004. In support thereof, petitioner provides a copy of their docket records and provides a statement that the file jacket and docket records were searched and that the Office action was not received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petition complies with all of the requirements set forth above.

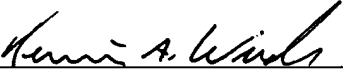
A review of the file record also reveals that the non-final Office action was returned to the Office as undeliverable on October 5, 2004. Thus, there was obviously an irregularity in mailing of the Office action.

Decision on Petition

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the group technical support staff for re-mailing of the non-final Office action originally mailed September 20, 2004. The time period for response will be reset to run from the re-mail date.



Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications